

**BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

POWERFUL PEST MANAGEMENT
44-850 Las Palmas, Suite A
Palm Desert, CA 92260

Company Registration Certificate No. PR 3508

LORI ANN FAHNESTOCK,
PRESIDENT/QUALIFYING MANAGER
52-160 Avenida Mendoza
La Quinta, CA 92253

Operator's License No. OPR 10084

Respondents.

Case No. 2013-15

OAH No. 2012110485

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Structural Pest Control Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on March 2, 2014.

It is so ORDERED January 31, 2014.



FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 ANTOINETTE B. CINCOTTA
Deputy Attorney General
4 State Bar No. 120482
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2095
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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10 **DEPARTMENT OF CONSUMER AFFAIRS**
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14 **Palm Desert, CA 92260**

15 **Company Registration Certificate No. PR 3508**

16 **LORI ANN FAHNESTOCK,**
PRESIDENT/QUALIFYING MANAGER
17 **52-160 Avenida Mendoza**
La Quinta, CA 92253

18 **Operator's License No. OPR 10084**

19 Respondents.
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Case No. 2013-15

OAH No. 2012110485

**STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER**

21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
22 entitled proceedings that the following matters are true:

23 PARTIES

24 1. Susan Saylor ("Complainant") is the Registrar/Executive Officer of the Structural
25 Pest Control Board. She brought this action solely in her official capacity and is represented in
26 this matter by Kamala D. Harris, Attorney General of the State of California, by Antoinette B.
27 Cincotta, Deputy Attorney General.

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1 2. Powerful Pest Management and Lori Ann Fahnestock ("Respondents") are
2 represented in this proceeding by attorney James L Frederick, Esq., Goeltz & Frederick, A.P.C.,
3 located at 504 West Mission Avenue, Suite 103, Escondido, CA 92025.

4 3. On or about August 26, 1999, the Board issued Company Registration Certificate
5 Number PR 3508 to Powerful Pest Management (Respondent Powerful Pest Management), Lori
6 Ann Fahnestock, President and Qualifying Manager, in Branch 2 with an address of 52-160
7 Avenida Mendoza, La Quinta, California. On December 9, 1999, Company Registration
8 Certificate No. PR 3508 was upgraded to include Branches 2 and 3, with Lori Ann Fahnestock as
9 Branch 3 Qualifying Manager. On June 19, 2001, Respondent Powerful Pest Management
10 changed its mailing address to P.O. Box 166, La Quinta, California, and its business address to
11 44-855 San Pablo, Unit #7, Palm Desert, California. On October 28, 2003, Respondent Powerful
12 Pest Management changed its address to 44-850 Las Palmas, Suite A, Palm Desert, California.
13 On October 28, 2009, Respondent Powerful Pest Management's registration certificate was
14 suspended for failure to maintain the general liability insurance as required by Business and
15 Professions Code section 8690. On November 3, 2009, Respondent Powerful Pest Management's
16 registration certificate was reinstated after posting general liability insurance. On November 5,
17 2010, Respondent Powerful Pest Management's registration certificate was suspended for failure
18 to maintain general liability insurance. On November 12, 2010, Respondent Powerful Pest
19 Management's registration certificate was reinstated after posting general liability insurance. The
20 Respondent Powerful Pest Management's registration certificate was in full force and effect at all
21 times relevant to the charges brought herein.

22 4. On or about August 26, 1999, the Board issued Operator's License Number OPR
23 10084 to Lori Ann Fahnestock (Respondent Fahnestock), in Branch 2, with an address of 52-160
24 Avenida Mendoza, La Quinta, California. On December 9, 1999, Respondent Fahnestock's
25 Operator's License No. OPR 10084 was upgraded to include Branches 2 and 3, and she became
26 the Branch 3 Qualifying Manager of Respondent Powerful Pest Management. On June 19, 2001,
27 Respondent Fahnestock's changed her mailing address to P.O. Box 166, La Quinta, California,
28 and changed her business address to 44-855 San Pablo, Unit 7, Palm Desert, California. On

1 October 28, 2003, Respondent Fahnestock changed her business address to 44-850 Las Palmas,
2 Suite A, Palm Desert, California. On October 28, 2009, Respondent Fahnestock's operator's
3 license was suspended due to failure to maintain the general liability insurance as required by
4 Business and Professions Code section 8690. On November 3, 2009, Respondent Fahnestock's
5 operator's license No. OPR 10084 was reinstated after posting general liability insurance. On
6 November 5, 2010, Respondent Fahnestock's operator's license was again suspended for failure
7 to maintain general liability insurance. On November 12, 2010, Respondent Fahnestock's
8 operator's license was reinstated after posting general liability insurance. Respondent
9 Fahnestock's operator's license was in full force and effect at all times relevant to the charges
10 brought herein, and will expire on June 30, 2014, unless renewed.

11 JURISDICTION

12 5. Accusation No. 2013-15 was filed before the Structural Pest Control Board (Board),
13 Department of Consumer Affairs, and is currently pending against Respondents. The Accusation
14 and all other statutorily required documents were properly served on Respondents on October 10,
15 2012. Respondents timely filed their Notice of Defense contesting the Accusation.

16 6. A copy of Accusation No. 2013-15 is attached as Exhibit A and incorporated herein
17 by reference.

18 ADVISEMENT AND WAIVERS

19 7. Respondent Fahnestock, individually and on behalf of Respondent Powerful Pest
20 Management, has carefully read, fully discussed with counsel, and understands the charges and
21 allegations in Accusation No. 2013-15. Respondent Fahnestock, individually and on behalf of
22 Respondent Powerful Pest Management, has also carefully read, fully discussed with counsel, and
23 understands the effects of this Stipulated Settlement and Disciplinary Order.

24 8. Respondent Fahnestock, individually and on behalf of Respondent Powerful Pest
25 Management, is fully aware of Respondents' legal rights in this matter, including the right to a
26 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
27 the witnesses against them; the right to present evidence and to testify on its own behalf; the right
28 to the issuance of subpoenas to compel the attendance of witnesses and the production of

1 documents; the right to reconsideration and court review of an adverse decision; and all other
2 rights accorded by the California Administrative Procedure Act and other applicable laws.

3 9. Respondent Fahnestock, individually and on behalf of Respondent Powerful Pest
4 Management, voluntarily, knowingly, and intelligently waives and gives up each and every right
5 set forth above.

6 CULPABILITY

7 10. Respondent Fahnestock, individually and on behalf of Respondent Powerful Pest
8 Management, admits the truth of each and every charge and allegation in Accusation No. 2013-
9 15.

10 11. Respondent Fahnestock agrees that her Company Registration Certificate and
11 Operator License are subject to discipline, and she agrees to be bound by the Board's probationary
12 terms as set forth in the Disciplinary Order below.

13 CONTINGENCY

14 12. This stipulation shall be subject to approval by the Structural Pest Control Board.
15 Respondent Fahnestock, individually and on behalf of Respondent Powerful Pest Management,
16 understands and agrees that counsel for Complainant and the staff of the Structural Pest Control
17 Board may communicate directly with the Board regarding this stipulation and settlement,
18 without notice to or participation by Respondent or its counsel. By signing the stipulation,
19 Respondents understand and agree that they may not withdraw their agreement or seek to rescind
20 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
21 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall
22 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
23 between the parties, and the Board shall not be disqualified from further action by having
24 considered this matter.

25 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
26 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
27 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

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14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Company Registration Certificate No. PR 3508 issued to Respondent Powerful Pest Management and Operator License No. OPR 10084 issued to Respondent Fahnestock are revoked. However, the revocations are stayed and Respondents are placed on probation for three (3) years on the following terms and conditions.

1. **Obey All Laws.** Respondents shall obey all Federal, State and Local laws along with all laws and rules relating to the practice of structural pest control.

2. **Quarterly Reports.** Respondents shall file quarterly reports with the Board during the period of probation.

3. **Tolling of Probation.** Should Respondent Fahnestock leave California to reside outside this state, Respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state shall not apply to reduction of the probationary period.

4. **Notice to Employers.** Respondent Fahnstock shall notify all present and prospective employers of the decision in Case No. 2013-15, and the terms, conditions and restrictions imposed on Respondents by said decision.

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1 Within 30 days of the effective date of this decision, and within 15 days of Respondent
2 Fahnestock undertaking new employment, Respondent Fahnestock shall cause her employer to
3 report to the Board in writing acknowledging the employer has read the decision in Case No.
4 2013-15.

5 **5. Notice to Employees.** Respondents shall, upon or before the effective date of this
6 decision, post or circulate a notice to all employees involved in structural pest control operations
7 which accurately recite the terms and conditions of probation. Respondents shall be responsible
8 for said notice being immediately available to said employees. "Employees" as used in this
9 provision includes all full-time, part-time, temporary and relief employees and independent
10 contractors employed or hired at any time during probation.

11 **6. Completion of Probation.** Upon successful completion of probation, Respondents'
12 Operator's License and Company Registration will be fully restored.

13 **7. Violation of Probation.** Should either Respondent violate probation in any respect,
14 the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation
15 and carry out the disciplinary order which was stayed. If a petition to revoke probation is filed
16 against either Respondent during probation, the Board shall have continuing jurisdiction until the
17 matter is final, and the period of probation shall be extended until the matter is final.

18 **8. Continuing Education Course – Branch 3.** Respondent Fahnestock shall complete
19 4 hours of a Board approved Branch 3 technical course within eighteen (18) months of the
20 effective date of this decision. This course may not be used as continuing education towards
21 renewal of Respondent's Operator's License.

22 **9. Random Inspections.** Respondents shall reimburse the Board for one random
23 inspection per quarter by Board specialists during the period of probation not to exceed \$125.00
24 per inspection.

25 **10. Cost Recovery.** Respondents shall pay to the Board costs associated with its
26 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
27 amount of \$7,676.81. Respondents shall be permitted to pay these costs in a payment plan
28 approved by the Board, with payments to be completed no later than three months prior to the end

1 of the probation term. If Respondents have not complied with this condition during the
2 probationary term, and Respondent have presented sufficient documentation of their good faith
3 efforts to comply with this condition, and if no other conditions have been violated, the Board, in
4 its discretion, may grant an extension of Respondents' probation period up to one year without
5 further hearing in order to comply with this condition. During the one year extension, all original
6 conditions of probation will apply.

7 **11. Subject Property Brought into Compliance.** Prior to the effective date of this
8 Decision and Order, Respondents shall bring the subject property into compliance as determined
9 by the Board's inspector. If Respondents fail to bring the subject property into compliance prior
10 to the effective date of this Decision and Order, the Company Registration and Operator License
11 shall both be suspended until the subject property is in compliance as determined by a Board's
12 inspector.

13 **12. Prohibited from Serving as Officer, Director, Associate, Partner or Qualifying**
14 **Manager.** Respondent Fahnestock is prohibited from serving as an officer, director, associate,
15 partner, qualifying manager or branch office manager of any registered company other than
16 Respondent Powerful Pest Management during the period that discipline is imposed on Company
17 Registration Certificate No. PR 3508 and Operator License No. OPR 10084.

18 **13. Posted Notice of Suspension.** Respondent Powerful Pest Management shall
19 prominently post any suspension notice provided by the Board of the Board's order of suspension
20 at its principal office and each of its branch offices in a place conspicuous and readable to the
21 public. Said notice shall remain so posted during the entire period of actual suspension.

22 **14. No Interest In Any Registered Company.** Respondent Fahnestock shall not have
23 any legal or beneficial interest in any company currently or hereinafter registered by the Board
24 other than Respondent Powerful Pest Management.

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, James L. Frederick, Esq., Goeltz & Frederick, A.P.C., located at
4 504 West Mission Avenue, Suite 103, Escondido, CA 92025. I understand the stipulation and
5 the effect it will have on my Company Registration Certificate and Operator's License. I enter
6 into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,
7 and agree to be bound by the Decision and Order of the Structural Pest Control Board.

8 DATED: 12/5/13

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LORI ANN FAHNESTOCK, individually, and on
behalf of POWERFUL PEST MANAGEMENT
10 Respondents

11 I have read and fully discussed with Respondent Fahnestock, individually and on behalf of
12 Respondent Powerful Pest Management, the terms and conditions and other matters contained in
13 the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

14 DATED: 12-5-13

15 
JAMES L. FREDERICK, ESQ.
16 Attorney for Respondents

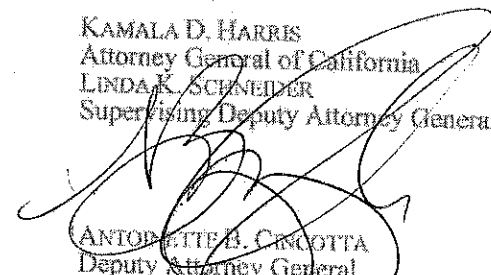
17 ENDORSEMENT

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
19 submitted for consideration by the Structural Pest Control Board.

20 Dated: 12/11/2013

21 Respectfully submitted,

22 KAMALA D. HARRIS
Attorney General of California
23 LINDA K. SCHNEIDER
Supervising Deputy Attorney General

24 
25 ANTONETTE B. CINCOTTA
26 Deputy Attorney General
27 Attorneys for Complainant